

**IN THE WESTERN DISTRICT OF MISSOURI
U.S. DISTRICT COURT**

DRU D. SMITH,)
)
)
Plaintiff,)
)
)
v.) Case No. 07-0565-CV-W
)
)
HY-VEE, INC.,)
)
)
Defendant.)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Hy-Vee, Inc. ("Hy-Vee"), appearing by and through its undersigned attorneys, hereby removes the above captioned action to this Court from the Circuit Court of Jackson County, Missouri, assigned case number 0716-CV16532.

1. Defendant Hy-Vee is an Iowa corporation with its corporate headquarters and principal place of business located in the State of Iowa. Exhibit A (Affidavit of Chad Dyhrkopp).
2. Plaintiff Dru D. Smith is a resident of the state of Missouri. Exhibit B (Plaintiff's Complaint) at ¶ 1.
3. While Plaintiff's Complaint fails to specify the monetary amount in controversy, exclusive of interest and costs, defense counsel spoke with Plaintiff's counsel regarding whether Plaintiff would agree to stipulate to an amount in controversy at or below \$75,000 and Plaintiff declined to agree. Exhibit C (Affidavit of counsel).
4. Based upon this, and Plaintiff's Complaint which seeks compensatory damages, lost wages, punitive damages, costs and attorney's fees, in addition to other categories of damages, *see* Exhibit B at ¶¶ 30-37, it is presumed that Plaintiff contends the amount in controversy exceeds \$75,000.

5. Per Plaintiff's Complaint, this cause of action was originally filed in Kansas City, Jackson County, Missouri, which is located in the Western Division of the Western District of Missouri.

6. Defendant Hy-Vee was served through its registered agent for service of process, CT Corporation System, on or about July 12, 2007. Exhibit C.

7. This Notice of Removal is being filed with this Court within 30 days after Defendant was served with a copy of the Plaintiff's Complaint setting forth the claims upon which this removal is based.

8. By this Notice of Removal, Defendant does not waive any defense, jurisdictional or otherwise, which it may possess.

9. Based on the above, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because complete diversity of citizenship exists between the parties and the amount in controversy is in excess of the Federal Court's jurisdictional requirements. Therefore, this case is properly removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

10. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Hy-Vee in the underlying action have been attached hereto. See Exhibit B; Exhibit D.

Respectfully submitted,

SPENCER FANE BRITT & BROWNE LLP

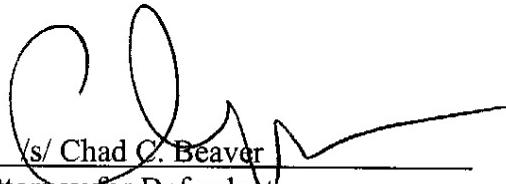
/s/ Chad C. Beaver

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Notice of Removal was deposited in the United States mail first class, postage prepaid, this 3 day of August, 2007, addressed to:

C. Jason Brown
Brown & Associates, LLC
7505 NW Tiffany Springs Parkway
Suite 130
Kansas City, MO 64153
Attorneys for Plaintiff



/s/ Chad C. Beaver
Attorney for Defendant